IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 694 OF 2005

Shriram G. Jaiswal ..Appellant

versus

Municipal Corporation of

Gr. Mumbai & ors. ..Respondents

Mr. J. G. Damani for the Appellant.

Mr. J. J. Xavier for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 20TH JULY,2005

ORAL ORDER :

1. Heard.

2. Appellant is the original plaintiff. He had filed a suit for following reliefs :

a) That the defendant No.1, its officers, subordinates, Engineers, be restrained by permanent order and injunction of this Hon'ble Court from sanctioning plan and/or to issue I.O.D. and/or C.C. in respect of

suit property i.e. land bearing Survey no. 184, Hissa No.10, CTS No.2477 admeasuring 2011.8 sq. mtrs. or thereabouts lying, being and situate at Village Eksar, Taluka Borivali, Mumbai Suburban District, Rokadia Cross Lane, Borivli (West), Bombay 400 092 in favour of defendant No.3 or any person claiming through him;

b) In alternative to prayer (a) in case the plan is sanctioned or approved, the same be revoked and cancelled forthwith and defendant No.1 be directed to issue stop work notice to carry out any further work of construction or development to the suit property by defendant No.3 or any one else;

c) That in case plan approved, the action of the part of defendant No.1 to allow the defendant No.3 to carry out the construction or the development, without compliance of the terms and conditions of I.O.D. be declared as null and void, illegal and the same be set aside, C.C.if any granted be cancelled or revoked;"

No ad interim order was granted to him. Construction of the building was completed. Counsel

for the appellant tendered four photographs, out of which one is retained by me and kept on record. I have bracketed the newly constructed building. The structure of the appellant - plaintiff is shown in the front. Now if the structure is completely erected, for want of any ad interim order, these prayers (a), (b) and (c) become infructuous. Building was constructed and cannot be demolished now. If any of the rights of the appellant - plaintiff to water and all that have been effected, he can file a fresh suit. Counsel for the appellant contended that occupation certificate has so far not been issued. That does not affect the case at all. His main grievance was that most of the documents were not considered by the trial court, if that is so, then also the reliefs that were claimed by the appellant - plaintiff cannot be granted. Therefore, no interference is called for. Appeal is dismissed.

20.7.2005 (D.G. DESHPANDE, J.)